

General Information Letter: Employee benefits excluded from gross income are generally excluded from base income.

November 20, 2002

Dear:

This is in response to your letter dated August 9, 2002 in which you state the following:

Can you please tell me whether the state follows the federal Internal Revenue Code (IRC) in its income tax treatment of the following three types of employer-provided fringe benefits, or whether different provisions apply in the state:

1. Group-term life insurance. (Under the IRC, the value of group-term life insurance provided by, or purchased through, an employer up to \$50,000 is excluded from employee' income and FICA tax (social security and Medicare) purposes. The value of coverage in excess of \$50,000 is subject to FICA.)

2. Moving expense reimbursements. (Under the IRC, if an employer reimburses an employee or pays a third party directly for moving expenses that qualify for a tax deduction, that amount is excluded from the employee's income. All other amounts reimbursed are included in income and are subject to federal income tax withholding, FICA, and FUTA (federal unemployment tax).

3. Education assistance. (The IRC excluded from income employer-paid education if it *related* to the employee's current job. The IRC also excludes up to \$5,250 a year of *non job-related* educational assistance for both graduate- and undergraduate-level courses beginning after 12-21-01. Graduate-level courses beginning after 6-30-96 were previously not covered by the exclusion. Therefore educational assistance provided for graduate-level courses that began after 6-30-96 and up to 12-31-01 are subject to federal income tax withholding, FICA and FUTA.)

According to the Department of Revenue ("Department") regulations, the Department may issue only two types of letter rulings: Private Letter Rulings ("PLR") and General Information Letters ("GIL"). The regulations explaining these two types of rulings issued by the Department can be found in 2 Ill.Adm.Code §1200, or on the website <http://www.revenue.state.il.us/legalinformation/regs/part1200>.

Due to the nature of your inquiry and the information presented in your letter, we are required to respond with a GIL. GILs are designed to provide background information on specific topics. GILs, however, are not binding on the Department.

Determination of net income for Illinois income tax purposes begins with federal adjusted gross income ("AGI"). Accordingly, any sum properly excluded or deducted from income for federal purposes prior to the determination of AGI is effectively excluded from income for Illinois' purposes.

Section 203 of the Illinois Income Tax Act ("IITA") adds back certain amounts of income to federal AGI, but the addition modifications to AGI described in Section 203 do not include modifications for group-term life insurance provided by, or purchased through, an employer. The modifications to AGI described in Section 203 similarly do not include modifications for employer reimbursement or

payment of an employee's moving expenses. Finally, the addition modifications to AGI described in Section 203 do not include a modification for employer paid education.

As stated above, this is a general information letter which does not constitute a statement of policy that either applies, interprets or prescribes tax law. It is not binding on the Department. Should you have additional questions, please do not hesitate to contact our office.

Sincerely,

Matthew S. Crain